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CABLE LAW

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5 MOE'S PROCESS SERVING, INC.

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7
8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 CARL ALEXANDER WESCOTT,

11 Plaintiff,

12 vs.

13
14 SC ANDERSON, INC.; HERRIG & VOGT,
15 LLP; MOE'S PROCESS SERVING, INC.;

16 Defendants.

Case No.: 3:17-cv-05676-LB

**NOTICE OF MOTION AND MOTION TO DISMISS
FIRST AMENDED COMPLAINT**

Date: August 23, 2018

Time: 9:30 a.m.

Location: U.S. District Court, Northern District,
Courtroom C – 15th Floor, San Francisco, CA

Judge: Hon. Laurel Beeler

Action Filed: October 2, 2017

Trial Date: None

17 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

18 PLEASE TAKE NOTICE that on August 23, 2018 at 9:30 a.m. in Courtroom C - 15th
19 Floor of the above titled court, Defendants MOE'S PROCESS SERVING, INC. ("Defendant")
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1 will and hereby does, move the Court for an order dismissing this action pursuant to Federal
2 Rule of Civil Procedure 12(b)(6).

3 Defendant seeks an order dismissing the First Amended Complaint ("FAC") filed by
4 Plaintiff Carl Alexander Wescott in its entirety, without leave to amend. The grounds for the
5 motion are that the causes of action set forth in the FAC do not state a claim on which relief
6 can be granted by this Court, the causes of action are barred by both California's litigation
7 privilege and/or the applicable statutes of limitation, the FAC fails to meet the pleading
8 standards required under Federal Rule of Civil Procedure 9, and the Court should decline to
9 exercise supplemental jurisdiction over the state law claims alleged in the FAC in order to
10 avoid unnecessary decisions on state law. Dismissal of the FAC without leave to amend is
11 appropriate because amendment of the FAC would be futile and an amended complaint
12 would be subject to dismissal.

13 This Motion is based on this notice of motion and motion, the memorandum of points
14 and authorities, the request for judicial notice, all pleadings and files in this matter, all other
15 matters which this Court may take judicial notice and upon such other and further oral or
16 documentary evidence as may be presented to the Court at or prior to the hearing on this
17 Motion.

18 DATED: July 16, 2018

CABLE LAW

19 /s/ Keith D. Cable

20 By: KEITH D. CABLE, ESQ.
21 Attorneys for Defendant
22 MOE'S PROCESS SERVING, INC.
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